

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Newport News Division)**

**LARRY D. REESE,**

**Plaintiff,**

**v.**

**J.C. PENNEY COMPANY, INC., *et al.*,**

**Defendants.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Civil Action No.: 4:14cv156**

**DEFENDANT WINTER CONSTRUCTION COMPANY'S  
ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

COMES NOW Defendant Winter Construction Company ("Defendant"), by and through counsel, Bonner Kiernan Trebach & Crociata LLP, and in response to the allegations contained in Plaintiff's Amended Complaint, Defendant states the following:

1. Defendant does not have sufficient information or knowledge with which to respond to the allegations contained in paragraphs 1, 2 and 4 of Plaintiff's Amended Complaint and, therefore, denies same and demands strict proof thereof.

2. The allegations contained in paragraphs 5, 6, 7 and 8 of Plaintiff's Amended Complaint contain legal conclusions and/or opinions, for which no responses are deemed to be required. However, to the extent that responses are required by the court, Defendant does not have sufficient information or knowledge with which to respond thereto and, therefore, denies same and demands strict proof thereof.

3. Defendant denies the allegations contained in paragraphs 3, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23 and 24 of Plaintiff's Amended Complaint and demands strict proof thereof.

4. The allegations contained in paragraph 17 of Plaintiff's Amended Complaint contain legal conclusions and/or opinions, for which no responses are deemed to be required. However, to the extent that responses are required by the court, Defendant denies same, as phrased, and demands strict proof thereof.

5. Defendant denies that it is indebted to Plaintiff in the amount of \$74,000.00 or in any amount.

6. Any allegation that is not specifically admitted, is hereby denied.

**DEFENSES AND AFFIRMATIVE DEFENSE**

7. Defendant was not negligent.

8. Defendant was not in breach of any such duty to Plaintiff.

9. Plaintiff's claims are barred by his own contributory negligence and/or assumption of the risk.

10. Plaintiff failed to take due and appropriate care in the mitigation of his alleged injuries and damages.

11. Plaintiff's alleged damages were proximately caused by breaches, act(s) of commission or omission of others and/or over which Defendant exercised no control or right to control, and/or which act(s) intervened between and/or superseded Defendant's alleged breaches and/or acts and Plaintiff's alleged injuries and damages, thereby barring Plaintiff from any recovery from Defendant.

12. Some or all of Plaintiff's claimed damages were attributable to causes other than the incident complained of and must therefore be apportioned to such other causes accordingly.

13. Plaintiff's alleged injuries and damages are not casually related to the events alleged in the Amended Complaint.

14. Defendant was neither on notice of any such alleged dangerous and/or hazardous condition nor did Defendant have any opportunity and/or sufficient time to resolve, correct and/or remove any such alleged dangerous and/or hazardous condition.

15. Defendant further pleads the statute of limitations and/or worker's comp bar to the extent such defenses are applicable.

16. To the extent that Plaintiff has filed for bankruptcy, he may not be the proper Plaintiff and/or have standing in this action.

17. Any allegation that is not specifically admitted, is hereby denied.

18. Defendant reserves the right to assert other defenses as discovery (or at trial) in this case disclose a basis therefore.

WHEREFORE, Defendant Winter Construction Company, by counsel, prays that this Honorable Court dismiss the Amended Complaint filed by the Plaintiff and enter judgment in its favor, allowing all costs expended on its behalf.

Respectfully Submitted,

**BONNER KIERNAN TREBACH & CROCIATA, LLP**

/s/ Craig L. Sarner

Craig Sarner, Esquire, VSB #37384  
1233 20<sup>th</sup> Street, N.W., 8<sup>th</sup> Floor  
Washington, D.C. 20036  
Telephone (202) 712-7000  
Facsimile (202) 712-7100  
[csarner@bonnerkiernan.com](mailto:csarner@bonnerkiernan.com)

*Counsel for Defendant Winter Construction Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of April, 2015, a copy of the foregoing was served  
via ECF and/or first class mail, postage prepaid, on:

Lowell A. Stanley, Esquire  
THE LOWELL STANLEY FIRM  
6330 Newtown Road, Suite 324  
P.O. Box 12639  
Norfolk, VA 23541  
***Counsel for Plaintiff***

Brian A. Cafritz, Esquire  
Jessica G. Relyea, Esquire  
KALBAUGH, PFUND & MESSERSMITH, P.C.  
901 Moorefield Park Drive, Suite 200  
Richmond, VA 23236  
[Brian/Cafritz@kpmlaw.com](mailto:Brian/Cafritz@kpmlaw.com)  
[Jessica.Relyea@kpmlaw.com](mailto:Jessica.Relyea@kpmlaw.com)  
***Counsel for Defendant/Cross-Plaintiff J.C. Penney Company, Inc.***

Helen E. Jhun, Esquire  
KALBAUGH, PFUND & MESSERSMITH, P.C.  
555 East Main Street, Suite 1200  
Norfolk, VA 23510  
[Helen.Jhun@kpmlaw.com](mailto:Helen.Jhun@kpmlaw.com)  
***Counsel for Defendant/Cross-Plaintiff J.C. Penney Company, Inc.***

Wirt P. Marks, IV, Esquire  
Robert Harrington & Associates  
7401 Beaufont Springs Drive, Suite 401  
Richmond, VA 23225  
***Counsel for Third-Party Defendant Premium Installation & Management, LLC***

/s/ Craig L. Sarner  
Craig Sarner, Esquire, VSB #37384  
**BONNER KIERNAN TREBACH & CROCIATA, LLP**  
1233 20<sup>th</sup> Street, N.W., 8<sup>th</sup> Floor  
Washington, D.C. 20036  
Telephone (202) 712-7000  
Facsimile (202) 712-7100  
[csarner@bonnerkiernan.com](mailto:csarner@bonnerkiernan.com)  
***Counsel for Defendant/Cross-Defendant/Third-Party Plaintiff***  
***Winter Construction Company***